

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TAVITA LEVEQUE,

Plaintiff(s),

-against-

NORTH SHORE LIJ HEALTH SYSTEM,

Defendant(s).

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WILLIAM D. WALL, United States Magistrate Judge:

**REPORT AND
RECOMMENDATION**
CV 09-3466(SJF)(WDW)

On October 14, 2010¹, I ordered the plaintiff to serve initial disclosures and responses to outstanding discovery demands no later than November 3, 2010. That deadline was a final chance for the plaintiff to avoid a recommendation of dismissal, and the order warned her that failure to comply would result in a recommendation that her complaint be dismissed with prejudice pursuant to Rules 37 and 41. DE[20]. On November 4, 2010, the defendant filed a letter informing the court that Ms. Leveque has not complied with my orders and has not contacted the defendants. DE[23]. The defendant details the service of the earlier order on Ms. Leveque, recounts her history of noncompliance, and asks that I recommend dismissal. For these reasons, I recommend that the complaint be dismissed with prejudice pursuant to Rule 37 and Rule 41, for the plaintiff's repeated failures to meet her discovery obligations and to comply with this court's orders or to prosecute this action.

OBJECTIONS

A copy of this Report and Recommendation is being sent to counsel for the defendant by electronic filing on the date below. Defendant's counsel is directed to serve a copy of this Report on the plaintiff by both regular and certified mail, return receipt requested, and to file proof of

¹The October 14 Order was an amended version of an order docketed on October 12. The amended version corrected a typographical error in a date.

service with the court. Any objections to this Report and Recommendation must be filed with the Clerk of the Court within 14 days of service. *See* 28 U.S.C. §636 (b)(1); Fed. R. Civ. P. 72; Fed. R. Civ. P. 6(a) and 6(d). Failure to file objections within this period waives the right to appeal the District Court's Order. *See Ferrer v. Woliver*, 2008 WL 4951035, at *2 (2d Cir. Nov. 20, 2008); *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York
November 5, 2010

/s/ William D. Wall
WILLIAM D. WALL
United States Magistrate Judge